

§ 1626.15

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costs, procure a copy or transcript thereof, except that a witness may for good cause be limited to inspection of the official transcript of his or her testimony.

§ 1626.15 Commission enforcement.

(a) As provided in sections 9, 11, 16 and 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 209, 211, 216 and 217) (FLSA) and sections 6 and 7 of this Act, the Commission and its authorized representatives may (1) investigate and gather data; (2) enter and inspect establishments and records and make transcripts thereof; (3) interview employees; (4) impose on persons subject to the Act appropriate record-keeping and reporting requirements; (5) advise employers, employment agencies and labor organizations with regard to their obligations under the Act and any changes necessary in their policies, practices and procedures to assure compliance with the Act; (6) subpoena witnesses and require the production of documents and other evidence; (7) supervise the payment of amounts owing pursuant to section 16(c) of the FLSA, and (8) institute action under section 16(c) or section 17 of the FLSA or both to obtain appropriate relief.

(b) Whenever the Commission has a reasonable basis to conclude that a violation of the Act has occurred or will occur, it may commence conciliation under section 7(b) of the Act. The date of issuance of written notice to the respondent of the Commission's intent to begin or continue conciliation shall determine when the statute of limitations is tolled pursuant to section 7(e)(2) of the Act. Such notice will ordinarily be issued in the form of a letter of violation; provided, however, that failure to issue a written violation letter shall in no instance be construed as a finding of no violation. The Commission will ordinarily notify the respondent and aggrieved persons of its determination. In the process of conducting any investigation or conciliation under this Act, the identity of persons who have provided information in confidence shall not be disclosed except in accordance with § 1626.4. When the written notice prescribed above is issued, the statute of limitations shall be

tolled for a period of one year unless a conciliation agreement is obtained earlier. The tolling period pursuant to section 7(e)(2) is applicable to both Commission and private party litigation.

(c) Any agreement reached as a result of efforts undertaken pursuant to this section shall, as far as practicable, require the respondent to eliminate the unlawful practice(s) and provide appropriate affirmative relief. Such agreement shall be reduced to writing and will ordinarily be signed by the Commission's delegated representative, the respondent, and the charging party, if any. A copy of the signed agreement shall be sent to all the signatories thereto.

(d) Upon the failure of informal conciliation, conference and persuasion under section 7(b) of the Act, the Commission may initiate and conduct litigation.

(e) The District Directors, the Washington Field Office Director, and the Director of the Office of Program Operations or their designees, are hereby delegated authority to exercise the powers enumerated in § 1626.15(a) (1) through (7) and (b) and (c). The General Counsel or his/her designee is hereby delegated the authority to exercise the powers in paragraph (a) of this section and at the direction of the Commission to initiate and conduct litigation.

[48 FR 140, Jan. 3, 1983, as amended at 54 FR 32063, Aug. 4, 1989; 54 FR 33503, Aug. 15, 1989]

§ 1626.16 Subpoenas.

(a) To effectuate the purposes of the Act the Commission shall have the authority to issue a subpoena requiring:

(1) The attendance and testimony of witnesses;

(2) The production of evidence including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(3) Access to evidence for the purpose of examination and the right to copy.

(b) The power to issue subpoenas has been delegated by the Commission, pursuant to section 6(a) of the Act, to the General Counsel, the District Directors, the Washington Field Office Director, the Director of the Office of Program Operations, or their designees. The subpoena shall state the